



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

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January 14th, 1998

Minutes of the January 14th, 1998 meeting of the Commission on Governmental Ethics and Election Practices held in Room B8 of the State Office Building, Augusta.

Present: Chairman Peter B. Webster; members Linda W. Cronkhite, Harriet P. Henry, G. Calvin Mackenzie, Merle R. Nelson; Commission Counsel Phyllis Gardiner; Director Marilyn Canavan

Chairman Webster called the meeting to order at 9: 10 a.m. First, the minutes of the December 17th, 1997 meeting underwent review. Mr. Mackenzie moved to accept the minutes conditionally so as to afford members an opportunity to review them and to offer suggestions and make corrections. Mr. Webster asked that changes be phoned in within seven days. The motion was seconded and voted unanimously.

The next item to undergo review was the complaint of Maine Citizens for Jobs and Safety (MCJS) against the Natural Resources Council of Maine PAC (NRCM) in which it was alleged that NRCM failed to register in a timely fashion, failed to report the cost of a poll sponsored by NRCM and failed to file a required report. Prior to consideration, Ms. Canavan noted that MCJS had withdrawn its complaint; that the Commission was thus proceeding on its own motion.

Mr. Timothy Glidden was present and represented NRCM. He explained that two of the allegations made in the complaint were without merit; that these were:

- 1) that NRCM failed to report the cost of a poll; and
- 2) that NRCM failed to file a required a report.

He contended that the poll in question was disclosed in NRCM's lobbyist disclosure report and that NRCM had filed all of its PAC reports in a timely fashion.

He then said that he concurred with the Commission staff's conclusions with respect to the claim that NRCM had failed to provide timely notification of its opposition to a ballot issue.

After a brief discussion of the matter, Ms. Nelson moved, and it was seconded, that a penalty of \$50 be assessed NRCM for the lateness of its amended registration. The motion was voted 4-0-1, Ms. Henry abstaining because of her membership in NRCM.

Next, the Commission turned to Item #9 on the agenda: a communication to the Commission from Ms. Sally Bryant, President of the League of Women Voters of Maine (LWV). Ms. Bryant expressed concern that a PAC which supported the veto of a question on the February 10th ballot

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should choose to call itself "Yes for Equal Rights." Ms. Sarah Walton was present and spoke on behalf of LWV. She asserted that the use of the name was not only misleading, but that it was potentially in violation of 21-A M.R.S.A. Section 1004(2) which prohibits the making of a false statement in a report.

In the discussion that ensued, questions were raised as to the applicability of Section 1004 to the issue undergoing review. At the conclusion of the discussion, Mr. Mackenzie moved to dismiss the complaint on the grounds that the issues raised therein were not relevant to the Commission's jurisdiction. The motion was seconded and voted unanimously.

Next, the Commission voted to remove from the table the complaint of Mr. Matt Anson against the Democratic Leadership Congressional Committee (DLCC) in which it was alleged that the Committee failed to properly report certain contributions it had made to the Maine Democratic State Committee (MDSC). Mr. Anson was present and addressed the Commission concerning the charges contained in his complaint. He claimed the DLCC had falsely reported the names of donee's; that in lieu of the actual recipient -- i.e., MDSC -- the Committee had listed "Win in '96" and "Victory in 96."

Ms. Canavan then reported that she had contacted the Executive Director of MDSC and had learned that "Win in 96" and "Victory 96" were affiliates of MDSC; that each of the affiliates had a separate bank account; that the establishment of separate accounts served to facilitate compliance with federal law; that each of the accounts was controlled by the same party officials; and that the use of affiliate committees was perfectly permissible under federal law. Thereupon, Mr. Mackenzie moved to dismiss the complaint on the basis that the law was silent on whether an entity may use the name of an affiliate in reporting a campaign contribution. As part of the motion, he suggested that the staff be directed to develop procedures for encouraging the accurate reporting of expenditures; i.e., listing in reports the name of the actual recipient in lieu of the affiliate committee. The motion was seconded and voted unanimously.

Next, the Commission turned to agenda Item #4: the Commission's search for a facilitator and a drafter to assist in implementing the provisions of the Maine Clean Election Act. First, the Commission voted to reconsider its action whereby it awarded the facilitator contract to Ms. Hotch and the drafter contract to Gosline et al, an error having been made in preliminary calculations. Ms. Nelson then made a motion to award the facilitator contract to Ms. Anne Schink and the drafting contract to Ms. Karen Tilberg. Mr. Mackenzie seconded and the motion was voted unanimously.

Ms. Canavan then introduced both Ms. Schink and Ms. Tilberg to the Commission. Ms. Schink spoke briefly, discussing the role she hoped to play in facilitating meetings between stakeholders and members of the Commission. Ms. Tilberg then followed suit, saying she hoped to be able to present a rough draft of proposed rules in advance of the first stakeholder meeting; that the draft would identify core issues to be discussed by the participants; and that the draft could thus be used as a point of reference at the first meeting. There followed a discussion on the merits of using ITV as a means of providing members of the general public with a comprehensive overview of the stakeholder process. It was generally agreed that the use of that medium might



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be more suitable in the context of formal rule-making. Hence, the staff was directed to contact ITV officials to obtain an estimate of the cost of broadcasting the final proceedings. At the conclusion of the discussion, Mr. Mackenzie moved that Ms. Tilberg, Ms. Schink, Ms. Canavan, and Ms. Gardiner meet to develop a proposal and time line for the stakeholder meetings; that the proposal be submitted to the Commission for consideration at the February meeting. The motion was seconded and voted unanimously.

Next, the Commission voted to enter into executive session for the purpose of discussing a petition filed with the Courts by the National Right to Life PAC State Fund. The petitioners asked that the Commission be required to pay attorneys' fees and litigation expenses to the law firm of Bopp, Coleson & Bostrom. Assistant Attorney General Andrew Hagler discussed details of the litigation and answered Commissioners' questions. At the conclusion of his remarks, the Commission opened the meeting to the public and continued with its regular business.

The Commission then reviewed revised campaign reporting forms submitted by the staff. Thereupon, Mr. Mackenzie moved to adopt the forms subject to approval by the State Auditor. The motion was seconded and voted unanimously.

Next, Ms. Canavan announced that Mr. Tony Raymond's demonstration of electronic filing, scheduled for that afternoon, had been postponed because of inclement weather; that the demonstration would be held in February on the date of the next meeting, weather permitting.

The next topic for discussion was the Commission's search for a new executive director, Ms. Canavan having announced her decision to retire effective April 1st. Ms. Canavan recommended that the Commission move quickly to petition Mr. John Alden of the Department of Human Resources to change the status of the position from "in-house hire" to "direct hire." She suggested this would give the commission more flexibility in the hiring process and would ultimately provide it with a wider field of candidates from which to choose. She then presented a draft ad for the Commission's consideration. Thereupon, Mr. Webster appointed Ms. Nelson and Ms. Henry to head-up the search, including the screening of applications.

Ms. Canavan then explained that the Governor had denied the Commission's supplemental budget request for funds which would have allowed the Commission to hire a new director effective April 1st; that she had thus sought to find another way of effecting a seamless transition; that she had learned from an official of the Division of Purchases that the person hired to fill the position could, through mutual agreement, serve on a contractual basis through either Manpower or Kelly until general fund moneys became available. She explained that funds for contract employees are drawn from the "all other" account; and that the Commission had access to substantial, all other" funds through its dedicated account.

Moving to yet another personnel issue, Ms. Canavan said she had requested that the Legislature approve a head count of 1.0 for a Clerk Typist III position to serve as secretary to the new director. Finally, she suggested that the agency consider hiring temporary help to fill in when Ms. Perry goes out on maternity leave. She then expressed concern about the possibility of losing some of the dedicated moneys used to fund the clerk typist position should an action be



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successfully brought concerning lobbyist registration fees. It was the consensus of members that need for additional staffing outweighed any concerns about a possible budget shortfall.

Next, the Commission discussed Item #13: the amended reports of 1996 candidate Annette Høglund.

The Chair expressed the hope the Commission might soon conclude its investigation of the financing of her campaign and asked that the staff review the reports and be prepared to present its findings at the next meeting.

The next matter to undergo review was agenda Item #14: the complaint of Gerald Berube in which it was alleged that a communication circulated by the Maine Grassroots Coalition failed to carry the name and address of the person who paid for and authorized the communication; that it was therefore in violation of the attribution law. At the conclusion of the Commission's review of the relevant statute, and on the recommendation of the staff, Mr. Mackenzie moved, and it was seconded, to penalize the group \$100 pursuant to the provisions of 21-A M.R.S.A. Section 1055 which states that "an expenditure . . . which results in a violation of (the attribution law) may result in a civil penalty of no more than \$100.

Next, the Commission reviewed a complaint brought against Ms. Kaileigh D'Auteil Tara, a candidate for the office of mayor in the City of Lewiston. Alleged in the complaint was that Ms. Tara's campaign agents had circulated a communication that lacked attribution. On the recommendation of staff, Mr. Mackenzie moved, and it was seconded, to assess Ms. Tara a penalty of \$100 on the basis that the communication was in violation of 21-A M.R.S.A. Section 1014. The motion was voted unanimously.

At that point, Mr. Arne Pearson rose to address the Commission concerning Ms. Tara's case. He said he had worked on Ms. Tara's campaign and had learned that the deficiency in Ms. Tara's ad was the result of newspaper error. He then suggested that the Commission staff develop a means for notifying newspaper ad departments of the disclaimer requirements. Ms. Canavan said that while she agreed in principle with the merits of the suggestion, she and her staff lacked the resources to provide educational materials for members of the media.

Next, the Commission reviewed the late reports of lobbyists Richard Silkman (Independent Energy Consumer Group) and Ralph Pears (Distilled Spirits Council). The staff indicated that Mr. Silkman had one prior violation; while Mr. Pears had none. On those findings, it was moved, seconded, and voted to assess Mr. Silkman the maximum penalty of \$100 and to reduce Mr. Pears' penalty by 50 percent (i.e., to \$50).

The Commission then considered a request of the staff for guidance on the question whether a candidate may receive as per them from campaign contributions to support him/herself while campaigning for office. On motion of Mr. Mackenzie, the Commission voted to refer the matter to the Attorney General's office for response. The motion was seconded and voted.

Finally, the Commission considered in executive session the request of a Legislator for an advisory opinion. The Legislator inquired as to whether he would have a conflict of interest in



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serving as Executive Director of the Maine Democratic Party while serving as a member of the Legislature. After a brief discussion of the matter, members arrived at the consensus that no conflict would exist in a Legislator holding a paid party position.

At 11: 45 a.m. the meeting was adjourned.